

## § 190.5

*Administrator* means the Administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate.

*Associate Administrator* means the Associate Administrator for Pipeline Safety, or his or her delegate.

*Chief Counsel* means the Chief Counsel of PHMSA.

*Day* means a 24-hour period ending at 11:59 p.m. Unless otherwise specified, a day refers to a calendar day.

*Hearing* means an informal conference or a proceeding for oral presentation. Unless otherwise specifically prescribed in this part, the use of “hearing” is not intended to require a hearing on the record in accordance with section 554 of title 5, U.S.C.

*OPS* means the Office of Pipeline Safety, which is part of the Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation.

*Operator* means any owner or operator.

*Person* means any individual, firm, joint venture, partnership, corporation, association, State, municipality, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

*Presiding Official* means the person who conducts any hearing relating to civil penalty assessments, compliance orders, orders directing amendment, safety orders, or corrective action orders and who has the duties and powers set forth in § 190.212.

*Regional Director* means the head of any one of the Regional Offices of the Office of Pipeline Safety, or a designee appointed by the Regional Director. Regional Offices are located in Trenton, NJ (Eastern Region); Atlanta, Georgia (Southern Region); Kansas City, Missouri (Central Region); Houston, Texas (Southwest Region); and Lakewood, Colorado (Western Region).

*Respondent* means a person upon whom OPS has served an enforcement action described in this part.

*PHMSA* means the Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation.

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*State* means a State of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

[Amdt. 190–6, 61 FR 18513, Apr. 26, 1996, as amended at 68 FR 11749, Mar. 12, 2003; 70 FR 11137, Mar. 8, 2005; Amdt. 190–15, 74 FR 62505, Nov. 30, 2009; Amdt. 190–16, 78 FR 58908, Sept. 25, 2013]

### § 190.5 Service.

(a) Each order, notice, or other document required to be served under this part will be served personally, by certified mail, overnight courier, or electronic transmission by facsimile or other electronic means that includes reliable acknowledgement of actual receipt.

(b) Service upon a person’s duly authorized representative or agent constitutes service upon that person.

(c) Service by certified mail or overnight courier is complete upon mailing. Service by electronic transmission is complete upon transmission and acknowledgement of receipt. An official receipt for the mailing from the U.S. Postal Service or overnight courier, or a facsimile or other electronic transmission confirmation, constitutes prima facie evidence of service.

[45 FR 20413, Mar. 27, 1980, as amended at 73 FR 16567, Mar. 28, 2008; Amdt. 190–16, 78 FR 58909, Sept. 25, 2013]

### § 190.7 Subpoenas; witness fees.

(a) The Administrator, Chief Counsel, or the official designated by the Administrator to preside over a hearing convened in accordance with this part, may sign and issue subpoenas individually on his or her own initiative at any time, including pursuant to an inspection or investigation, or upon request and adequate showing by a participant to an enforcement proceeding that the information sought will materially advance the proceeding.

(b) A subpoena may require the attendance of a witness, or the production of documentary or other tangible evidence in the possession or under the control of person served, or both.

(c) A subpoena may be served personally by any person who is not an interested person and is not less than 18 years of age, or by certified mail.

(d) Service of a subpoena upon the person named in the subpoena is